

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 CRISTIAN JOB DELBOSQUE,

11 Petitioner,

12 v.

13 STEPHEN D. SINCLAIR,

14 Respondent.  
15

CASE NO. C13-5495 BHS-KLS

REPORT AND  
RECOMMENDATION

NOTED FOR:  
January 9, 2015.

16 This petition for a writ of *habeas corpus* has been referred to United States  
17 Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. §636(b)(1) and Local MJR 3  
18 and 4. Petitioner is an inmate housed at the Washington State Penitentiary. Petitioner is  
19 represented by counsel. He has filed a petition for writ of *habeas corpus* pursuant to 28  
20 U.S.C. §2254.

21 The parties have filed a motion to dismiss this habeas corpus petition without  
22 prejudice. Dkt. 28. In 1994 petitioner was sentenced to life without the possibility of  
23 parole and Mr. Delbosque was under the age of eighteen when he was sentenced. Dkt. 1.  
24

1 Petitioner filed the petition in light of the Supreme Court holding calling into question the  
2 legality of life sentences for persons under the age of eighteen. *Miller v. Alabama*, \_  
3 U.S.\_ 132 S. Ct. 2455, 183 L.Ed. 2d 407 (2012).

4 Since the filing of this petition the Washington State Legislature has passed new  
5 legislation and instituted a procedure for re-sentencing persons with sentences like Mr.  
6 Delbosque. Dkt. 28, p. Petitioner is scheduled for re-sentencing. *Id.*

7 In light of these changes in the law, the undersigned recommends granting the  
8 parties motion to dismiss this petition without prejudice. Pursuant to 28 U.S.C.  
9 §636(B)(1) and Federal Rule of Civil Procedure (“Fed. R. Civ. P.”) 72(b), the parties  
10 shall have fourteen (14) days from service of the Report and Recommendation to file  
11 written objections thereto. *See also* Fed. R. Civ. P. 6. Failure to file objections will  
12 result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S.  
13 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the clerk is  
14 directed to set this matter for consideration on January 9, 2015, as noted in the caption.  
15

16 Dated this 15<sup>th</sup> day of December, 2014.

17  
18  
19 

20 Karen L. Strombom  
21 United States Magistrate Judge  
22  
23  
24